

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
APRIL 2003 AGENDA
Item No. WC-3

<p>TITLE: Request by seven school districts for a retroactive waiver of <i>Education Code (EC) Section 60119</i> regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have audit findings for fiscal year 2001-2002 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.</p> <p>CDSIS: 18-2-2003 - Alvina Elementary School District 09-2-2003 – Belridge School District 02-3-2003 – Chualar Union Elementary School District 33-2-2003 – Live Oak Unified School District 09-3-2003 – Los Gatos-Saratoga Joint Union High School District 15-1- 2003 –Orange Center Elementary School District 19-2-2003 – Pope Valley School District</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING <u> X </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: ☒ Approval

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education (SBE) has heard and approved a policy developed by the department of Instructional Materials Sufficiency Waivers of Retroactive audit findings. None of these districts have had a prior year finding and waiver of this type, so this goes to consent.

Summary of Key Issue(s):

During audits for fiscal year 2001-2002, it was discovered that the above local educational agencies did not hold the public hearing notice of sufficiency of instructional materials as required by *EC* Section 60119 or post the required ten days notice of the public hearing.

Since then, the local educational agencies have held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the local educational agencies have had a waiver of this education code before for the public hearing and ten day notice requirements in the 1997-98, 1998-99, 1999-00 or 2000-01 years. Without the waiver, the local educational agencies will have to return **\$381,121** to CDE.

Therefore, since the local educational agencies have met the requirements for fiscal year 2002-2003, and agree to comply with *E.C.* 60119 and ensure that the public hearing is held within the fiscal year and that the notice of public hearing is posted for ten days, CDE recommends approval of this waiver request.

Authority for the waiver: *EC* Section 41344.3

Effective dates of request: 7/1/01 to 6/30/02 Audit Year

Fiscal Analysis (as appropriate): This waiver if approved will relieve districts of **\$381,121** in total penalties.

Background Information:

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

Failure to Hold the Public Hearing, and Complete a Local Board Resolution on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS-9-2-2003 – Belridge School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$4,733 in Schiff-Bustamante and Instructional Materials funds.
- The auditor found that the district did not have the public hearing noted in the minutes, therefore, the district incurred an audit finding for Education Code Section 60119. The district has since held a fully compliant hearing on March 4, 2003 for the 2002-2003 year. The district has changed their procedures for recording the public hearing separately in the minutes.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-2-3-2003 – Chualar Union Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$23,460 in Schiff-Bustamante and Instructional Materials funds.
- The auditor cited the district for not holding a public hearing as required by Education Code Section 60119. The district has since held a fully compliant hearing on December 18, 2002 for the 2002-2003 year. The district has added the 60119 public hearing to their calendar to ensure compliance in the future.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-33-2-2003 – Live Oak Unified School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$130,445 in Schiff-Bustamante and Instructional Materials funds.
- The district did not hold the public hearing for Fiscal Year 2001-2002 resulting in an audit finding. The district has since held a fully compliant hearing on September 17, 2002 for the 2002-2003 year. Live Oak has changed their procedures in order to ensure that the district doesn't miss the required public hearing in the future.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-15-1-2003 – Orange Center Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$27,684 in Schiff-Bustamante and Instructional Materials funds.
- The auditor found that the district failed to hold a public hearing for fiscal year 2001-2002. The district has since held a fully compliant public hearing on January 8, 2003.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-19-2-2003 – Pope Valley School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$5,214 in Schiff-Bustamante and Instructional Materials funds.
- The district failed to hold a public hearing for fiscal year 2001-2002 that resulted in an audit finding. The district had a meeting regarding the new Standards based books but a vote was not taken. The district has since held a fully compliant hearing for Education Code Section 60119 on August 14, 2003. The district has changed their procedures to ensure that this does not happen again.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 9-3-2003 – Los Gatos-Saratoga Joint Union High School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$175,642 in Schiff-Bustamante and Instructional Materials funds.
- The district failed to post the notice of the 60119 public hearing ten days in advance for fiscal year 2001-2002. The district held a fully compliant hearing for Education Code Section 60119 on December 10, 2002. The district has changed their procedures to ensure that this does not happen again.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Post the Notice of the Public Hearing in Three Public Places on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 18-2-2003 – Alvina Elementary School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$13,943 in Schiff-Bustamante and Instructional Materials funds.
- The district failed to post the notice of the 60119 public hearing in three public places, instead it was only posted at one place. The district held a fully compliant hearing on October 1, 2002. The district will enact procedures to prevent this from happening again.
- CDE staff verified all other requirements of the Specific Waiver request.